IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TENTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE BILAL NAZKI

and
THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NOs : 25740 of 2002 and 6024 of 2003

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W.P.No. 25740 of 2002

Between:

K. Madhava Rao S/o. Late Sri K. Balakrishna Rao
R/o. 12-13-245, St.No. 15, Tarnaka, Secunderabad.

..... PETITIONER

AND

1 The Union of India, Ministry of Commerce & Industry Rep. by The Development Commissioner, CSEZ Sub-office for 100% Export Oriented Unit, No. 365, 8th Main, 4th Cross, Viveknagar, Bangalore - 560 047.
2 Asian Flora Limited Plot No. 6, Journalists Colony,
8-2-248/B/2, Road No.3, Banjara Hills, Hyderabad - 500 034.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a WRIT OF CERTIORARI or other appropriate order or direction in the nature of a writ calling for the records resulting in the impugned order dated 13-11-2002 bearing F.No. 1/37/95:EOU:CEPZ/8984 and Quash the same as arbitrary without jurisdiction, and violative of Article 14 of the Constitution of India, principles of natural justice null and void and pass

Counsel for the Petitioner: MR.B.NALIN KUMAR

Counsel for the Respondent No.1: MR.ARAJASHEKAR REDDY (SC FOR CG)

For Respondent No.2 : None appeared.

WRIT PETITION NO : 6024 of 2003

Between:

D.Raghava Rao S/o.Sri.Chenchu Subba Rao
R/o.589,Arora Colony,Road.No.3,Banjara Hills Hyderabad.

..... PETITIONER

AND

1 Union of India Ministry of Commerce & Industry O/o.The Development Commissioner CSEZ Sub-Office for 100 % Export Oriented Unit,No.365,8th Main,4th Cross,Viveknagar Bangalore.
2 Asain Flora Limited Rep.by its Manager Plot.No.6,Journalists Colony,8-2-248/B/2,Road No.3 Banjara Hills Hyderabad

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Certiorari or other appropriate order or direction in the nature of writ calling for the records resulting in the impugned order dated 13-11-2002 bearing F.No.1/37/95:EOU:CEPZ:8984 and quash the same as arbitrary without jurisdiction, and violative of Article 14 of the Constitution of India, principles of natural justice null and void and pass

Counsel for the Petitioner: MR.B.NALIN KUMAR

Counsel for the Respondent No.1: MR.ARAJASHEKAR REDDY (SC FOR CG)

For Respondent No.2 : None appeared.

The Court made the following :

HON'BLE MR. JUSTICE BILAL NAZKI

AND

HON'BLE MR. JUSTICE S. ANANDA REDDY

W.P.NO. 25740 OF 2002

AND

W.P.NO. 6024 OF 2003

COMMON ORDER: (Per Hon'ble Mr. Justice Bilal Nazki)

Heard learned counsel for the parties. An order dated 13.11.2002 passed by the 1st respondent is challenged in these writ petitions. This order was passed under the Foreign Trade (Development and Regulation) Act, 1992 (for short "the Act"). The

company of which the petitioners were directors commenced commercial production on 1.2.1997. It had made exports worth Rs.50.26 lakhs during the period 1996-98 and the unit imported capital goods to the tune of Rs.606.70 lakhs. The unit ran up negative NFE to the extent of Rs.556.44 lakhs. In terms of sub-sections (2) and (5) of Section 11 of the Act after issuing a show cause notice, penalty of Rupees Fifteen Lakhs was imposed on the company and its directors. These two writ petitions have been filed by two directors. In W.P.No. 6024 of 2003 it is submitted that although the petitioner was a director, he had no liability as the liability was of company. In second writ petition being W.P.No.25740 of 2002 it is stated that the petitioner had ceased to be the director of the company on the date the impugned order was passed. Questions of fact need to be gone into in these writ petitions and alternate remedy is available under the Act of filing an appeal. Therefore we do not want to intervene in the matter. The writ petitions are accordingly dismissed with liberty to the petitioners to take recourse to remedies available to them in law, if so advised. No costs.

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BN J.

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SAR J.

Dt. 10.11.2004

KR

Sd/-

ASST. REGISTRAR

To

1 Union of India Ministry of Commerce & Industry O/o.The Development Commissioner CSEZ Sub-Office for 100 % Export Oriented Unit,No.365,8th Main,4th Cross,Viveknagar Bangalore.

2. The Manager, Asian Flora Limited Plot No. 6, Journalists Colony, 8-2-248/B/2, Road No.3, Banjara Hills, Hyderabad - 500 034.

3. CCs to Mr. A. Rajashekar Reddy, Standing Counsel for Central Government, High Court Buildings, Hyderabad (out);

4. 2 CD copies.